

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ONE BEACON INSURANCE COMPANY

Plaintiff

v.

ORDER
08-CV-823

JOHN R. FREUNDSCHUH
d/b/a Bobcat of Buffalo,

Defendant.

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(A). Plaintiff filed a motion for judgment on the pleadings with respect to defendant's third counterclaim and defendant filed a motion to amend its third counterclaim. On May 21, 2010, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that plaintiff's motion for judgment on the pleadings dismissing the original third counterclaim be granted and defendant's motion to amend/correct the third counterclaim be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, plaintiff's

motion for judgment on the pleadings dismissing the original third counterclaim is granted and defendant's motion to amend/correct the third counterclaim is denied. This case is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: August 5, 2010